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| <b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>  |                    | Docket Number (Optional)  |            |                             |                    |            |            |
|---|--------------------|---|------------|-----------------------------|--------------------|------------|------------|
| <div>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</div> <div>on <u>06/26/2008</u></div> <div>Signature <u>Janice Chen</u></div> <div>Typed or printed name <u>Janice Chen</u></div>  |                    | MTKP0041USA   |            |                             |                    |            |            |
|   |                    | <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 2px;">Application Number</td><td style="width: 50%; padding: 2px;">Filed</td></tr><tr><td style="text-align: center; padding: 2px;">10/605,560</td><td style="text-align: center; padding: 2px;">10/08/2003</td></tr></table> |            | Application Number          | Filed              | 10/605,560 | 10/08/2003 |
|   |                    | Application Number  | Filed      |                             |                    |            |            |
|   |                    | 10/605,560  | 10/08/2003 |                             |                    |            |            |
| <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td colspan="2" style="padding: 2px;">First Named Inventor</td></tr><tr><td colspan="2" style="text-align: center; padding: 2px;">Tun-Hsing Liu, Yuan-Ting Wu</td></tr></table>   |                    | First Named Inventor  |            | Tun-Hsing Liu, Yuan-Ting Wu |                    |            |            |
| First Named Inventor  |                    |   |            |                             |                    |            |            |
| Tun-Hsing Liu, Yuan-Ting Wu   |                    |   |            |                             |                    |            |            |
| <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 2px;">Art Unit</td><td style="width: 50%; padding: 2px;">Examiner</td></tr><tr><td style="text-align: center; padding: 2px;">2192</td><td style="text-align: center; padding: 2px;">TECKLU, ISAAC TUKU</td></tr></table>  |                    | Art Unit  | Examiner   | 2192                        | TECKLU, ISAAC TUKU |            |            |
| Art Unit  | Examiner           |   |            |                             |                    |            |            |
| 2192  | TECKLU, ISAAC TUKU |   |            |                             |                    |            |            |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).<br/>Note: No more than five (5) pages may be provided.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 20px;"><div style="width: 45%;"><p>I am the</p><div style="margin-bottom: 10px;"><input type="checkbox"/> applicant/inventor.</div><div style="margin-bottom: 10px;"><input type="checkbox"/> assignee of record of the entire interest.<br/>See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.<br/>(Form PTO/SB/96)</div><div style="margin-bottom: 10px;"><input checked="" type="checkbox"/> attorney or agent of record.<br/>Registration number <u>41,526</u></div><div><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.<br/>Registration number if acting under 37 CFR 1.34 _____</div></div><div style="width: 45%; text-align: center;"><div style="margin-bottom: 10px;"><br/>_____<br/>Signature</div><div style="margin-bottom: 10px;">Winston Hsu<br/>_____<br/>Typed or printed name</div><div style="margin-bottom: 10px;">302-729-1562<br/>_____<br/>Telephone number</div><div>06/26/2008<br/>_____<br/>Date</div></div></div> <p style="margin-top: 20px;">NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> |                    |   |            |                             |                    |            |            |
| <div style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> *Total of _____ forms are submitted.</div>   |                    |   |            |                             |                    |            |            |

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**FIRMWARE UPDATING METHOD AND RELATED APPARATUS FOR  
CHECKING CONTENT OF REPLACING FIRMWARE BEFORE  
FIRMWARE UPDATING**

Appl. No. : 10/605,560 Confirmation No. 2559  
Applicant : Tun-Hsing Liu,  
Yuan-Ting Wu  
Filed : October 8, 2003  
TC/A.U. : 2192  
Examiner : TECKLU, ISAAC TUKU  
Docket No. : MTKP0041USA  
Customer No. : 27765

Commissioner for Patents

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Reconsideration and allowance of claims 1 – 34 is respectfully requested because the independent method claim 1, independent method claim 9, independent apparatus claim 20, and independent method claim 31 have been rejected based on an improper standard.

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*Concerning independent claim 1:*

The Examiner states that Kato, FIG.4, illustrates firmware exchange tables showing that peripheral device A version 2 is compared with peripheral device A version 1. The applicant can find no evidence that FIG.4 shows such a comparison. In

any comparison table where  $x$  (peripheral device, in this case) is against  $y$  (main unit, in this case), the table is clearly for comparing  $x$  with  $y$ . There can be no  $x$ - $x$  comparison, as both devices are on the same axes. The Examiner particularly directed the applicant to the boxes annotated “2)” shown in Fig.4, and stated that software

5 version 2 is downloaded after a comparison between peripheral device A version 1 and peripheral device A version 2. As the box to the right of the second comparison table clearly says, “main unit Ver.2 is download”, the applicant fails to understand how a comparison between two software versions of the peripheral device would result in software for the **main unit** being downloaded. Moreover, this operation is different

10 from the limitations of Claim 1. Furthermore, as version 1 and version 2 are both designed for the peripheral device, there can be no issue of compatibility between the first version and the second version of the software **for this specific device**. The compatibility is a given. Therefore, the applicant contends that, not only does Kato provide no evidence of comparing peripheral device A version 1 with peripheral

15 device A version 2, but Kato also fails to provide any sensible reason for performing such a comparison. As such, the applicant asserts that the current rejection is improper.

To sum up the arguments made in previous office action responses: Kato does not teach comparing partial content of a second program code with predetermined content of a first program code, wherein if the partial content conforms with the

20 predetermined content (i.e. there is compatibility) the second program code will be downloaded for replacing the first program code. Kato teaches first determining compatibility between a current program code of the peripheral device (first program code), and a current program code of a host device (second program code), wherein if there **is** compatibility **no** new firmware will be downloaded – see FIG.4, fourth table,

bottom right box. This is clearly different from Claim 1.

If there is no compatibility, then:

- a) a new program code of the peripheral device (second program code) will be  
5 compared with the current program code of the host device (first program code);
- b) a new program code of the host device (second program code) will be compared  
with the current program code of the peripheral device (first program code); or
- c) a new program code of the peripheral device (second program code) will be  
compared with a new program code of the host device (first program code).

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In the case of a): if there is compatibility between these codes, then the new program code will be downloaded. See FIG.4, third table, bottom left box. This program code is **not** for replacing the current program code of the host device, however. This program code is for replacing the current program code of the peripheral device (the program  
15 code that has not been utilized in the comparison process). This is therefore different from Claim 1.

If there is no compatibility then comparison b) is made.

20 In the case of b): if there is compatibility between the codes, then the new program code will be downloaded. See FIG.4, second table, top right box. This program code is **not** for replacing the current program code of the host device, however. This program code is for replacing the current program code of the host device (the program code that has not been utilized in the comparison process). This is also different from Claim

1.

If there is no compatibility then comparison c) is made.

5 In the case of c): if there is compatibility, then both new program codes will be downloaded. See FIG.4, first table, bottom right box. Neither downloaded program code replaces originally compared program codes, as the downloaded program codes *are* the compared program codes. This is also different from Claim 1.

10 Therefore, the applicant asserts that Kato fails to teach pertinent limitations of Claim 1. The applicant further asserts that the rejection made in the advisory action is improper, for the above reasons, and respectfully requests re-examination.

*Concerning independent claims 9, 20 and 31:*

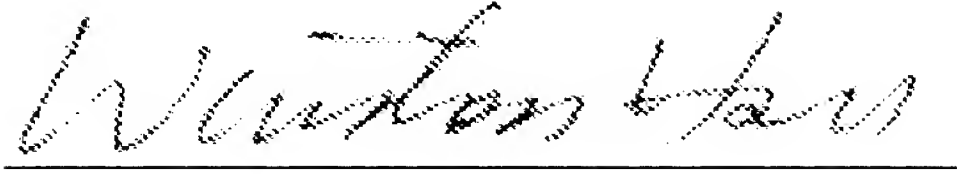
Claims 9, 20 and 31, respectively, contain the same limitation that the Examiner contends  
15 is taught by Kato, Fig.4. As detailed above, the applicant asserts that this rejection is improper.

*Concerning dependent claims 2 – 8, 10 – 19, 21 – 29 and 32 – 34:*

As the above-mentioned claims are dependent on improperly rejected independent claims,  
20 the applicant asserts that these claims are also rejected under an improper standard and should be found allowable.

The applicant therefore requests a re-examination of the arguments made in the previous office action response, and summarized here.

Sincerely yours,



Date: 06/26/2008

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Note: Please leave a message in my voice mail if you need to talk to me. (The time in D.C. is 12 hours behind the Taiwan time, i.e. 9 AM in D.C. = 9 PM in Taiwan.)